IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 264 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CALICO NAGAR COOPERATIVE HOSG.SOCIETY LTD & 1 - Petitioner(s)

Versus

SUB POST MASTER & 3 - Respondent(s)

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Appearance :

MR KH KAJI for Petitioner(s) : 1 – 2.MR MANISH K KAJI for Petitioner(s) : 1 - 2.
MR PJ MALKAN for Respondent(s) : 1 - 3.
DS AFF.NOT FILED (N) for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/02/2006

ORAL JUDGMENT

Rule. By way of this petition under Article 226 of the Constitution of India, the petitioners Calico Nagar Cooperative Housing

Society Ltd as well as Consumer Protection Council, Ahmedabad, have prayed for an appropriate writ, direction or order directing the respondent Postal Authorities to pay to the petitioner No.1 the amount due on maturity of the said Kisan Vikas Patras ('KVPs' for short) and further to pay interest at 12% p.a., on the total amount due from the date of maturity to the date of actual payment.

2. It is the contention on behalf of the petitioners that the petitioner No.1 purchased from the office of Sub-Post Master, Calico Mills Post Office from time to time various KVPs on 2.12.98, 15.2.99, 22.4.99 and 1.2.2001 and the date of maturity of said KVPs are 2.6.2004, 15.2.2005, 24.4.2005 and 1.8.2007. It is the contention on behalf of the petitioners that on maturity of the aforesaid certificates, the petitioner No.1 presented the said certificates on the respective maturity dates mentioned above

except the last batch which will mature on 1.8.2007 to the Sub-Post Master, Calico Mills Post Office, Ahmedabad and respondent No.1 informed the petitioner No.1 that petitioner No.1 was entitled to get the principal amount and not the interest as the said certificates were issued irregularly and contrary to Rule 6 of the Kisan Vikas Patra Rules, 1988. It is the contention on behalf of the petitioners that the petitioners pursued the said matter with various authorities from time to time but the said authorities did not agree to pay the amount of KVPs as per the scheme and after prolonged correspondence the respondent No.2 Office, i.e. Senior Superintendent of Post Office, Ahmedabad, by letter dated 25.5.2005 informed the petitioners that the said KVPs which were found issued irregularly in contravention of Rule 6 of KVP Rules 1988 were as per approval of competent authority said to have been regularized and the interest applicable to savings bank deposits was

only admissible on those investments and not the amount payable to the petitioner No.1 as per the KVP Scheme and therefore the petitioners have preferred the present Special Civil Applications for the aforesaid reliefs.

3. Shri KH Kaji, learned advocate appearing on behalf of the petitioners has vehemently submitted that the respondent No.1 on application made by the petitioner No.1 issued the KVPs from time to time thereby undertaking to pay the amount on maturity as per the scheme and the petitioner No.1 was not aware, nor was it informed by the respondent No.1 that the KVPs cannot be purchased after 1995 by the institutions like societies, companies etc., and having issued the certificates under the KVP Scheme they are estopped from denying their liability to pay the amount on maturity of KVPs as per the scheme. Shri Kaji has relied upon one decision of the Division Bench of this Court

dated 17.8.2004 rendered in Letters Patent Appeal No. 1509 of 2004 arising from Special Civil Application No. 2877 of 2003 wherein the Division Bench, after dealing with the identical question with regard to alleged irregular purchase of KVPs, and holding that the appellant petitioner society was entitled to interest of Rs. 30,000 on the principal amount of Rs. 30,000 which it had invested by way of KVPs with the respondent authority, allowed the aforesaid Letters Patent Appeal. Shri Kaji while submitting that the present case on hand is squarely covered by the above decision of the Division Bench in the aforesaid Letters Patent Appeal has requested to allow the present Special Civil Application.

4. Shri Jitendra Malkan, learned Additional Central Government Standing Counsel appearing on behalf of the respondents is not in a position to dispute that the present case is not covered by the decision of the Division Bench rendered in

aforesaid Letters Patent Appeal No. 1509 of 2004 arising from Special Civil Application No. 2877 of 2003.

5. In view of the above, and considering the fact that the respondent No.1 issued the KVPs in favour of the petitioners on submission of appropriate applications, it is not open for the respondents now not to pay the amount on maturity of KVPs as per the scheme after so many years and more particularly on the dates of maturity. Under the circumstances, and for the reasons stated in the decision of the Division Bench dated 17.8.2004 rendered in Letters Patent Appeal No. 1509 of 2004 in Special Civil Application No. 2877 of 2003, the present Special Civil Application is allowed.

6. For the reasons stated above, the petition succeeds. The concerned respondents are directed to pay the amount due on maturity of the

aforesaid KVPs in question as per the scheme inclusive of the entire interest and the said exercise be done within a period of two weeks from the date of receipt of this order and/or on production of the certified copy of this judgment and order. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

[M.R. Shah, J.]

RMR.